

### REMARKS

Claims 1-6, 20 and 33 are pending in the present application. Claims 7-19 21-32, 34-48 have been withdrawn from consideration as being directed to non-elected subject matter. The Action has rejected claims 1, 2, 5-6, 20 and 33, and objected to claims 1-6, 20 and 33.

In view of the following remarks, Applicants request reconsideration of the finality of the Action as the Examiner failed to address with specificity Applicants arguments regarding the Lang disclosure so as to uphold the restriction requirement and create an unfounded basis for rejecting and objecting to the claims. In fact, Applicants submit their remarks below will show unequivocally the Examiner's error in construing Lang such that the restriction should be withdrawn and the claims should be found.

#### **Lang**

Six principal embodiments relative to the compound of formula 1 in the specification of Lang are noted in Table I.

Table I

Compound of Formula 1 Embodiment	Specification Location
A	Col. 1, line 19 – Col. 2, line 24
B	Col. 2, line 25 – Col. 3, line 37
C	Col. 3, line 61 – Col. 5, line 55
D	Col. 5, line 56 – Col. 5, line 64
E	Col. 5, line 65 – Col. 7, line 39
F	Col. 7, line 40 – Col. 8, line 43

Six embodiments corresponding essentially and respectively to those in Table I are also found in the claims as noted in Table II.

Compound of Formula 1 Embodiment	Claim Location
G	Col. 33, line 16 – Col. 34, line 11
H	Col. 34, line 12 – Col. 34, line 61
I	Col. 34, line 62 – Col. 35, line 26

J	Col. 35, line 52 – Col. 37, line 44
K	Col. 37, line 45 – Col. 39, line 19
L	Col. 39, line 20 – Col. 40, line 43

The arguments that follow regarding the embodiments in the specification apply to the corresponding embodiments in the claims. It is essential that the definition of R(8) be viewed in the context of each variable from which it depends and that such definitions are not improperly cross associated. Furthermore the breadth of the definitions for variables also needs to be viewed relative to the scope provided from the broader to narrower context.

In embodiment A, the broadest embodiment, one of R(1) – R(6) is  $-\text{CO}-\text{N}=\text{C}(\text{NH}_2)_2$  (Col. 1, lines 34-35) and up to one of the other R(1) – R(6) substituents is R(8)-C<sub>n</sub>H<sub>2n</sub>-Z- (Col. 1, lines 40-41) and R(8) (Col. 1, line 47) may be phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>- (Col. 1, lines 54-59) or quinolyl or isoquinolyl (Col. 1, line 66), and R(7) is R(8)-C<sub>n</sub>H<sub>2n</sub>- (Col. 2, lines 9-10) and R(8) (Col. 1, line 47) may be phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>- (Col. 1, lines 54-59) or quinolyl or isoquinolyl (Col. 1, line 66). The aforesaid clearly indicates that the phenyl may be substituted but there is no indication that the quinolyl or isoquinolyl are substituted. Therefore, embodiment A does not teach or suggest a compound of formula 1 wherein, when n is 0, the R(7) could be a R(8) that is a substituted quinolyl or isoquinolyl.

In the narrower embodiment B, one of R(1) – R(6) is  $-\text{CO}-\text{N}=\text{C}(\text{NH}_2)_2$  (Col. 2, lines 33-34) and up to one of the other R(1) – R(6) substituents is R(8)-C<sub>n</sub>H<sub>2n</sub>-Z- (Col. 2, lines 39-40) and R(8) (Col. 2, line 45) may be phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>- (Col. 2, lines 51-56) or quinolyl or isoquinolyl (Col. 2, line 63), and R(7) is R(8)-C<sub>n</sub>H<sub>2n</sub>- (Col. 3, lines 3-4) and R(8) (Col. 2, line 45) may be phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>- (Col. 2, lines 51-56) or quinolyl or isoquinolyl (Col. 2, line 63). The aforesaid clearly indicates that the phenyl may be substituted but there is no indication that the quinolyl or isoquinolyl are substituted. Therefore, embodiment B does not teach or suggest a

compound of formula 1 wherein, when n is 0, the R(7) could be a R(8) that is a substituted quinolyl or isoquinolyl.

In the narrower embodiment C, R(1) is  $-\text{CO}-\text{N}=\text{C}(\text{NH}_2)_2$  (Col. 3, line 12) and up to one of the other R(2) – R(6) substituents is R(8)- $\text{C}_n\text{H}_{2n}-\text{Z}-$  (Col. 3, lines 17-18) and R(8) (Col. 3, line 24) may be phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl,  $\text{CF}_3$ ,  $\text{CH}_3-\text{S}(\text{O})_s-$  and R(9)- $\text{W}_y-$  (Col. 3, lines 24-29) or quinolyl or isoquinolyl (Col. 3, line 33), and R(7) is R(8)- $\text{C}_n\text{H}_{2n}-$  (Col. 3, lines 36-37) and R(8) (Col. 3, line 24) may be phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl,  $\text{CF}_3$ ,  $\text{CH}_3-\text{S}(\text{O})_s-$  and R(9)- $\text{W}_y-$  (Col. 3, lines 24-29) or quinolyl or isoquinolyl (Col. 3, line 33). The aforesaid clearly indicates that the phenyl may be substituted but there is no indication that the quinolyl or isoquinolyl are substituted. Therefore, embodiment C does not teach or suggest a compound of formula 1 wherein, when n is 0, the R(7) could be a R(8) that is a substituted quinolyl or isoquinolyl.

In the narrower embodiment D, one of R(1) – R(5) is  $-\text{CO}-\text{N}=\text{C}(\text{NH}_2)_2$  (Col. 4, lines 1-2) and up to one of the other R(1) – R(5) substituents is R(8)- $\text{C}_n\text{H}_{2n}-\text{Z}-$  (Col. 4, lines 8-10; Col. 4, lines 54-55; and Col. 5, lines 30-31 ) and R(8) (Col. 4, line 23; Col. 5, line 1; and Col. 5, line 33) may be quinolyl or isoquinolyl (Col. 4, line 23; Col. 5, lines 1-2; and Col. 5, lines 33-34) or phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I,  $\text{CF}_3$ ,  $\text{CH}_3-\text{S}(\text{O})_s-$  and R(9)- $\text{W}_y-$  (Col. 4, lines 24-27; Col. 5, lines 2-5; and Col. 5, lines 34-39), and R(7) is R(8)- $\text{C}_n\text{H}_{2n}-$  (Col. 4, lines 42-43) and R(8) (Col. 4, line 45) is NR(14)R(15) or  $\text{CF}_3$  (Col. 4, line 45). The aforesaid clearly indicates that the R(8) moiety encompassed by the R(1) – R(5) substituents is distinctly different from the R(8) moiety encompassed by R(7) substituent. Furthermore the phrase “unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I,  $\text{CF}_3$ ,  $\text{CH}_3-\text{S}(\text{O})_s-$  and R(9)- $\text{W}_y-$ ” following “phenyl” should be properly construed to only apply to phenyl and not to all the 1- or 2-naphthyl, pyridyl, quinolyl or isoquinolyl moieties preceding phenyl as those moieties in the broadest embodiment (A) of the invention are not noted as being substituted (Col. 1, line 64) whereas the phenyl in the broadest embodiment (A) of the invention did provide for it to be substituted exactly as the phrase noted (Col. 1, lines 54-59). The aforesaid clearly indicates that the phenyl may be substituted but there is no indication that the quinolyl or isoquinolyl are substituted. Therefore, embodiment D does not teach or

suggest a compound of formula 1 wherein, when n is 0, the R(7) could be a R(8) that is a substituted quinolyl or isoquinolyl.

In the narrower embodiment E, one of R(1) – R(5) is  $-\text{CO}-\text{N}=\text{C}(\text{NH}_2)_2$  (Col. 6, lines 5-6) and up to one of the other R(1) – R(5) substituents is R(8)-C<sub>n</sub>H<sub>2n</sub>-Z- (Col. 6, lines 13-15; Col. 6, lines 50-51; and Col. 7, lines 9-10) and R(8) (Col. 6, line 27; Col. 6, line 63; and Col. 7, line 21) may be quinolyl or isoquinolyl (Col. 6, line 27; Col. 6, line 63; and Col. 7, line 21) or phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>- (Col. 6, lines 27-31; Col. 6, lines 63-66; and Col. 7, lines 21-24), and R(7) is R(8)-C<sub>n</sub>H<sub>2n</sub>- (Col. 7, lines 33-34) and R(8) (Col. 7, line 36) is NR(14)R(15) or CF<sub>3</sub> (Col. 7, line 36). The aforesaid clearly indicates that the R(8) moiety encompassed by the R(1) – R(5) substituents is distinctly different from the R(8) moiety encompassed by R(7) substituent. Furthermore the phrase “unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>-“ following “phenyl” should be properly construed to only apply to phenyl and not to the 1- or 2-naphthyl, pyridyl, quinolyl or isoquinolyl moieties preceding phenyl as those moieties in the broadest embodiment (A) of the invention are not noted as being substituted (Col. 1, line 64) whereas the phenyl in the broadest embodiment (A) of the invention did provide for it to be substituted exactly as the phrase noted (Col. 1, lines 54-59). The aforesaid clearly indicates that the phenyl may be substituted but there is no indication that the quinolyl or isoquinolyl are substituted. Therefore, embodiment E does not teach or suggest a compound of formula 1 wherein, when n is 0, the R(7) could be a R(8) that is a substituted quinolyl or isoquinolyl.

In the narrower embodiment F, one of R(1) is  $-\text{CO}-\text{N}=\text{C}(\text{NH}_2)_2$  (Col. 7, line 47) and up to one of the other R(2) – R(5) substituents is R(8)-C<sub>n</sub>H<sub>2n</sub>-Z- (Col. 7, lines 53-55; Col. 8, lines 10-11; and Col. 8, lines 25-26) and R(8) (Col. 7, line 60; Col. 8, line 14; and Col. 8, line 28) may be quinolyl or isoquinolyl (Col. 7, line 60; Col. 8, line 14; and Col. 8, line 28) or phenyl, which is unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>- (Col. 7, lines 60-63; Col. 8, lines 14-17; and Col. 8, lines 28-31), and R(7) is R(8)-C<sub>n</sub>H<sub>2n</sub>- (Col. 8, lines 38-39) and R(8) (Col. 8, line 41) is NR(14)R(15) or CF<sub>3</sub> (Col. 8, line 41). The aforesaid clearly indicates that the R(8) moiety encompassed by the R(2) – R(5) substituents is distinctly different from the R(8) moiety encompassed by R(7) substituent. Furthermore the phrase “unsubstituted or

substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>-" following "phenyl" should be properly construed to only apply to phenyl and not to the 1- or 2-naphthyl, pyridyl, quinolyl or isoquinolyl moieties preceding phenyl as those moieties in the broadest embodiment (A) of the invention are not noted as being substituted (Col. 1, line 64) whereas the phenyl in the broadest embodiment (A) of the invention did provide for it to be substituted exactly as the phrase noted (Col. 1, lines 54-59). The aforesaid clearly indicates that the phenyl may be substituted but there is no indication that the quinolyl or isoquinolyl are substituted. Therefore, embodiment F does not teach or suggest a compound of formula 1 wherein, when n is 0, the R(7) could be a R(8) that is a substituted quinolyl or isoquinolyl.

In view of the aforesaid it should be clear that the Examiner incorrectly ascribed the phrase "unsubstituted or substituted by 1 to 3 substituents from the group consisting of F, Cl, Br, I, CF<sub>3</sub>, CH<sub>3</sub>-S(O)<sub>s</sub>- and R(9)-W<sub>y</sub>-" following "phenyl" to the other quinolyl and isoquinolyl moieties preceding phenyl. However that was not justified as those moieties had not been described as being substituted in the broadest embodiment of the invention. Furthermore, such description ascribed solely to phenyl was supported by the broadest embodiment of the invention. Consequently Lang has been grossly misapplied and its use should be withdrawn relative to the restriction requirement as it was not proper art to according to MPEP 803.02 to restrict the invention. Furthermore, as Lang is not art for the same reasons above, it cannot also be used to reject the invention. Thus, the rejection should be reconsidered and withdrawn. Lastly once the rejection is withdrawn for the reason noted aforesaid, then the objection would likewise be improper and should be withdrawn.

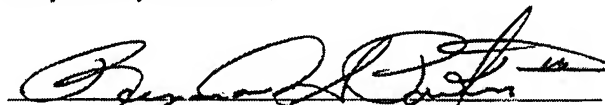
### **Conclusion**

Applicants respectfully submit that, in the absence of any prior art to compromise any of the pending claims, Applicants request an indication of allowable subject matter.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. 18-1982 in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,

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Raymond S. Parker, III, Reg. No.: 34,893  
Attorney for Applicants

sanofi-aventis U.S. Inc.  
US Patent Department  
Route #202-206 / P.O. Box 6800  
Bridgewater, NJ 08807-0800  
Telephone (908) 231-5674  
Telefax (908) 231-2626

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